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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

JOHN CALDERA, an individual; CAMILLE)
CALDERA, an individual; C.C., a minor by)
and through his guardian ad litem, DAVID)
JONES; H.C., a minor by and through her)
guardian ad litem, DAVID JONES,)

Plaintiffs,)

v.)

ALISO VILLAS CONDOMINIUM)
ASSOCIATION, a California Corporation,)
AMBER PROPERTY MANAGEMENT, a)
business form unknown; COURTESY)
PATROL SPECIALISTS, INC., a California)
Corporation; DOES 1 through 10, Inclusive,)

Defendants)

No.

**COMPLAINT FOR MONETARY,
DECLARATORY, AND
INJUNCTIVE RELIEF; DEMAND
FOR TRIAL BY JURY**

I.**INTRODUCTION**

1. This action seeks monetary, declaratory, and injunctive relief against defendants for discriminating against families with children in the operation of the Aliso Villas Condominiums located in Mission Viejo, CA (hereinafter “the Subject Property” or “the complex”) for coercing, intimidating, threatening, or interfering with plaintiffs in the exercise or enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Fair Housing Act and/or the Fair Employment and Housing Act in violation of the Fair Housing Act of 1968, as amended, 42 U.S.C. §§3601 *et seq.*, and related federal and state laws

II.**JURISDICTION AND VENUE**

2. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331 in that the claims alleged herein arise under the laws of the United States. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367 to hear and determine Plaintiffs' state law claims because those claims are related to Plaintiffs' federal law claims and arise out of a common nucleus of related facts. Plaintiffs' state law claims are related to Plaintiffs' federal law claims such that those claims form part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in that the claims alleged herein arose within the City of Mission Viejo, County of Orange, California.

* * *

* * *

1 **III.**

2 **PARTIES**

3

4 4. Plaintiffs John Caldera and Camille Caldera, husband and wife, live together with

5 their minor children, C.C. and H.C. at the Subject Property in Mission Viejo, Orange County, California.

6 Plaintiffs C.C. and H.C. are represented herein by their guardian ad litem, David Jones.

7

8 5. Defendant Aliso Villas Condominium Association, a California Corporation

9 (hereinafter AVCA) owns, operates, and manages the Subject Property. The Subject Property

10 is a condominium complex located in Mission Viejo, Orange County, CA. AVCA's offices are

11 located in Mission Viejo, Orange County, CA.

12

13 7. The Subject Property is managed by Defendant Amber Property

14 Management, a business form unknown (hereinafter APM), a property management company.

15 APM at all times relevant herein was employed Defendant AVCA.

16

17 8. Defendant Courtesy Patrol Specialists, Inc., a California Corporation (hereinafter

18 CPSI) is doing business in Tustin, Orange County, California. Defendants AVCA and APM hired CPSI

19 to provide security for the Subject Property at all times relevant herein.

20

21 9. Each defendant is, and at all times herein relevant was, the agent, employee, or

22 representative of each other defendant, in doing the acts or in omitting to act as alleged in this complaint,

23 was acting within the course and scope of his or her actual or apparent authority pursuant to such agency;

24 or the alleged acts or omissions of each defendant as agent were subsequently ratified and adopted by each

25 defendant as principal.

1 IV.

2 FACTS

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4 10. Defendants, acting individually and in concert with others, directly and through
5 agents, have engaged in a pattern or practice of discrimination against families with children, including
6 Plaintiffs, on account of familial status in the operation of the Subject Property. Defendants continue to
7 engage in such a pattern or practice of discrimination so as to constitute a continuing violation.
8

9 11. In May 2008, Plaintiffs John Caldera and Camille Caldera purchased a
10 condominium in the Aliso Villas One complex located in Mission Viejo, CA. Plaintiffs live at the
11 complex with their minor children, Plaintiffs C.C. and H.C. C.C. and H.C. are represented herein by their
12 Guardian Ad Litem, Dave Jones. C.C. has a disability, as he suffers from autism.
13

14 12. The complex is governed by Defendant Aliso Villas Condominium Association, a
15 California Corporation (hereinafter AVCA), and managed by Defendant Amber Property Management,
16 a business form unknown (hereinafter APM). AVCA employs Defendant Courtesy Patrol Specialists, Inc.,
17 a California Corporation (hereinafter CPSI) to provide security patrol for the complex.
18

19 13. During the time that Plaintiffs have lived at the complex, AVCA, APM, and CPSI
20 have enforced rules at the complex that violate federal and state fair housing laws. To wit, AVCA, APM,
21 and CPSI have enforced rules that prohibit children from playing in common areas of the property. On
22 several occasions when Plaintiffs have allowed their children to play, they have been threatened with fines
23 from AVCA and APM.
24

25 14. As for the written rules at the complex, they are as follows:
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27 “Common area. Ball playing near Aliso Villas 1 Buildings, garages and other structures is
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1 damaging to the structures and paint, and is prohibited.”

2
3 “Driveways, Parking Lots & Cul-de-Sacs. There is absolutely no playing in driveways, parking
4 lots or cul-de-sacs.”

5
6 “Miscellaneous. Bicycles, Big Wheels, skateboards, roller blades, etc. are not permitted on the
7 sidewalks around the units. This is for the safety of pedestrians.”

8
9 “In the interest of safety, it is recommended that recreational activities, including but not limited
10 to, skateboarding, ball playing, Frisbee throwing, roller skating/blading, and riding of “big wheel”
11 type toys not be conducted on the streets, sidewalks or other Common Areas of Aliso Villas I.”

12
13 “No Frisbee throwing, street hockey or ball playing of any kind is permitted in the complex.”

14
15 15. The foregoing rules are enforced so staunchly that children, effectively, are not
16 allowed to play outside at anytime at the complex, other than at the small playground at the complex. As
17 for the playground, it has a sign which states, “Children under the age of 14 must be accompanied by an
18 adult at all times.”

19
20 16. On June 5, 2012, Plaintiffs allowed their children to play in the common areas. In
21 response, on June 6, 2012, upon behalf of AVCA, Jamie Hackwith from APM sent a notice to Plaintiffs,
22 warning them that their children were seen playing in the streets and driveways, and that they had played
23 with a ball against a wall. The notice instructed Plaintiffs that all play activities were forbidden within the
24 driveways, parking lots, and cul-de-sacs, or else a hearing would be held to discuss a \$110 fine and more.
25 The notice was completely inappropriate, as the children were engaging in completely harmless play
26 activities.

1 17. On or about May 24, 2014, Plaintiffs children were playing on the cul-de-sac on the
2 property. This area is perfectly safe for children to play in, as there is no flow-through traffic. Upon
3 learning this, upon behalf of AVCA, Jamie Hackwith from APM sent a warning notice on June 4, 2014,
4 to Plaintiffs, informing them that they had violated community rules by allowing residents to play on the
5 driveways, parking lots, and cul-de-sacs. The notice further instructed Plaintiffs that bike riding, Frisbees,
6 street hockey, ball playing was not allowed. The notice further stated that community streets were “not
7 intended to be used aa a playground for children.” The notice was completely inappropriate, as the
8 children were engaging in completely harmless play activities and were perfectly safe.

9
10 18. Thereafter, on or about January 2, 2015, Plaintiffs’ children were playing on the cul-
11 de-sac at the complex. In response, on January 9, 2015, upon behalf of AVCA, Jamie Hackwith from
12 APM sent another warning notice, asking that such conduct cease at once. Once again, the notice was
13 completely inappropriate, as the children were engaging in completely harmless play activities.

14
15 19. The main security guard at the complex who works for CPSI is Joe Gutierrez. Mr.
16 Gutierrez is very controlling and staunchly works to ensure that children do not play outside in any
17 common area at the complex. On many occasions, Mr. Gutierrez has gotten into arguments with parents,
18 telling them that their children could not play outside in common areas. Many times, Mr. Gutierrez will
19 park his vehicle on the property, sitting and waiting to see if children will come out to play. If so, he
20 informs them that playing is not allowed. This constant harassment has brought stress to Plaintiffs,
21 especially C.C. who is autistic and needs to play outside.

22
23 20. The children at the complex have become frightened of Mr. Gutierrez and run inside
24 upon first sight of Mr. Gutierrez.

25
26 21. On or about March 5, 2016, Plaintiff John Caldera noticed Mr. Gutierrez sitting in
27 his car on the cul-de-sac, watching. Upon seeing this, Mr. Caldera walked up to the car, and filmed Mr.
28

1 Gutierrez. Mr. Gutierrez became upset, rolled down his car window, then said, “You are opening up a can
2 of worms.” Thereafter, Mr. Gutierrez began to regularly report Plaintiffs to APM for rules violations,
3 whenever Plaintiffs’ children would play outside.
4

5 22. On March 14, 2016, upon behalf of AVCA, Jamie Hackwith from APM sent a
6 warning notice to Plaintiffs, informing them that they were violating community rules by allowing their
7 children to play in common areas. Plaintiffs are informed and believe and thereon allege that Mr. Gutierrez
8 reported the alleged violation to APM so that APM would send such warning notice to Plaintiffs. The
9 notice was completely inappropriate, as the children were engaging in completely harmless play activities.
10

11 23. On or about March 21, 2016, Plaintiffs’ children played in the common areas at the
12 property.
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14 24. On March 22, 2016, upon behalf of AVCA, Jamie Hackwith from APM sent a
15 warning notice to Plaintiffs, informing them that they were violating community rules by allowing their
16 children to play in common areas. Plaintiffs were informed that a hearing would be held by AVCA to
17 determine if a \$110 fine should be levied in the event that such conduct did not cease. Plaintiffs are
18 informed and believe and thereon allege that Mr. Gutierrez reported the alleged violation to APM so that
19 APM would send such warning notice to Plaintiffs. The notice was completely inappropriate, as the
20 children were engaging in completely harmless play activities.
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22 25. On or about April 9 and 10, 2016, Plaintiffs children played outside in the common
23 areas at the complex.
24

25 26. On April 13, 2016, upon behalf of AVCA, Jamie Hackwith from APM sent notice
26 to Plaintiffs, informing them that they were in violation of community rules by allowing their children to
27 continue to play at the property. The letter informed Plaintiffs that they were required to attend a hearing
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1 on May 4, 2016, wherein AVCA would convene a board meeting, to determine if Plaintiffs would be fined
 2 \$110 for each “occurrence.” The notice further indicated that fines would double if future violations of
 3 the community rules took place. Plaintiffs are informed and believe and thereon allege that Mr. Gutierrez
 4 reported the alleged violation to APM so that APM would send such warning notice to Plaintiffs. The
 5 notice was completely inappropriate, as the children were engaging in completely harmless play activities.

6
 7 27. This constant harassment by AVCA, APM, and CPSI has intimidated Plaintiffs and
 8 has caused them to fear letting their children play outside at the complex. As of today, on the occasions
 9 when Plaintiffs allow their children to play outside, they are nervous and leery about getting further fines
 10 and warning notices. The entire complex lives under fear, due to AVCA’s, APM’s, and CPSI’s crack
 11 down on children playing at the complex. As it stands, children are not only prohibited from engaging
 12 in expressly prohibited conduct, but, rather, are also prohibited from playing any activity at anytime in the
 13 common areas, even if such play activities are not expressly prohibited by written community rules.

14
 15 28. As it stands, Plaintiff C.C. is autistic and needs to be outside. On virtually every
 16 occasion when C.C. has been outside in the common areas, he has been supervised and perfectly safe.

17 18 19 20 21 22 23 24 25 26 27 28

**V.
INJURIES**

29. By reason of defendants' unlawful acts and practices, plaintiffs have suffered loss
 of important housing opportunities, violation of their civil rights, deprivation of the full use and enjoyment
 of their tenancy, and emotional distress and physical injury, humiliation and mental anguish, physical
 distress, impairment of health, fear, stress, including bodily injury such as stomach aches; knots in
 stomach; head aches; sleep loss; feelings of depression, discouragement, dry throat, rise in body
 temperature, anger, and nervousness; trouble sleeping; and reliving the experience; and other special and
 general damages according to proof. Accordingly, plaintiffs are entitled to compensatory damages.

1 30. In doing the acts of which plaintiffs complain, defendants and their agents and
2 employees intentionally or recklessly violated plaintiffs' civil rights. Accordingly, all plaintiffs are entitled
3 to punitive damages.

4
5 31. There now exists an actual controversy between the parties regarding defendants'
6 duties under the federal and state fair housing laws. Accordingly, all plaintiffs are entitled to declaratory
7 relief.

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9 32. Unless enjoined, defendants will continue to engage in the unlawful acts and the
10 pattern or practice of discrimination described above.

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13 **VI.**
14 **FIRST CLAIM**
15 **(Fair Housing Act)**
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17 33. Plaintiffs reallege and incorporate by reference paragraphs 1 through 32 of the
18 complaint herein.

19 34. Defendants have injured plaintiffs in violation of the federal Fair Housing Act by
20 committing the following discriminatory housing practices:

21 A. Discriminating in the terms, conditions, and privileges of the rental of a dwelling
22 because of familial status, including without limitation forbidding children to play at any time in the
23 complex, or in the provision of services or facilities in connection therewith, because of familial status in
24 violation of 42 U.S.C. §3604(b);

25 B. Making, printing, or publishing notices, statements, or advertisements, with respect
26 to the rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status
27 or disability, or an intention to make any such preference, limitation, or discrimination in violation of 42
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1 U.S.C. §3604(c);

2 C. Coercing, intimidating, threatening, or interfering with persons in their exercise or
3 enjoyment of, or on account of their having exercised or enjoyed, or on account of their having aided or
4 encouraged any other person in the exercise or enjoyment of, any right granted by or protected by the Fair
5 Housing Act in violation of 42 U.S.C. §3617.

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8 **SECOND CLAIM**

9 **(California Fair Employment and Housing Act)**

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11 35. Plaintiffs reallege and incorporate by reference paragraphs 1 through 34 of the
12 complaint herein.

13
14 36. Defendants have injured plaintiffs in violation of the California Fair Employment
15 and Housing Act by committing the following discriminatory housing practices:

16 A. Making, printing, or publishing notices, statements, or advertisements, with respect
17 to the rental of a dwelling that indicates a preference, limitation, or discrimination based on familial status
18 or disability, or an intention to make any such preference, limitation, or discrimination in violation of
19 California Government Code §12955(c);

20 B. Expressing a preference for or limitation on a renter because of familial status in
21 violation of California Government Code §12955(d);

22 C. Harassing, evicting, or otherwise discriminating against any person in the rental of
23 housing accommodations where the dominant purpose is retaliation against a person who, among other
24 things, has opposed practices unlawful under the Fair Employment and Housing Act, in violation of
25 California Government Code §12955(f);

26 D. Otherwise making unavailable or denying a dwelling based on discrimination
27 because of familial status, in violation of California Government Code §12955(k); and
28

1 E. Threatening, intimidating, or interfering with persons in their enjoyment of a
2 dwelling because of familial status in violation of California Government Code §12955.7.

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4 **THIRD CLAIM**

5 **(Negligence)**

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7 37. Plaintiffs reallege and incorporate by reference paragraphs 1 through 36 of the
8 complaint herein.

9
10 38. Defendants owed plaintiffs a duty to operate the Subject Property in a manner that
11 was free from unlawful discrimination, and to hire, train, supervise, and discipline their employees and
12 themselves to fulfill that duty. Defendants negligently violated that duty by discriminating against families
13 with children on account of their familial status. Defendants' violation of that duty was the result of
14 negligence, including, but not limited to:

15 A. Defendants' negligent failure to hire persons who were familiar with the
16 requirements of state and federal fair housing laws;

17 B. Defendants' negligent failure to train their employees and themselves regarding the
18 requirements of state and federal fair housing laws;

19 C. Defendants' negligent failure to supervise their employees regarding compliance
20 with the requirements of state and federal fair housing laws; and

21 D. Defendants' negligent failure to follow standard, recognized rental
22 practices of the community;

23 E. Defendants' negligent failure to exercise the ordinary and reasonable care and
24 diligence required of a housing provider in the operation and management of the subject rental premises;
25 and/or

26 F. Defendants' negligent failure to discipline or terminate employees who failed to
27 comply with the requirements of state and federal fair housing rights laws.

1
2 39. As a legal result of defendants' negligent conduct, the plaintiffs have suffered loss
3 of an important housing opportunity, violation of their civil rights, deprivation of the full use and
4 enjoyment of their tenancy, invasion of the private right of occupancy, wrongful eviction, and bodily
5 injury, including severe humiliation, physical and emotional distress.

6
7 **FOURTH CLAIM**
8 **(Unfair Business Practices)**
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10 40. Plaintiffs reallege and incorporate by reference paragraphs 1 through 39 of the
11 complaint herein.

12
13 41. In acting as herein alleged, defendants have engaged in a pattern or practice of
14 unlawful discrimination in the operation of the Subject Property, a business establishment, and
15 therefore have engaged in acts of unfair competition as the same is defined in California Business &
16 Professions Code §17200 *et seq.*

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19 **VII.**
20 **PRAYER FOR RELIEF**
21

22 WHEREFORE, plaintiffs pray for entry of judgment against defendants that:

- 23
24 1. Awards compensatory and punitive damages according to proof;
25 2. Declares that defendants have violated the provisions of the applicable federal and state
26 fair housing laws;
27 3. Enjoins all unlawful practices complained about herein and imposes affirmative
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1 injunctive relief requiring defendants, their partners, agents, employees, assignees, and all persons
2 acting in concert or participating with them, to take affirmative action to provide equal housing
3 opportunities to all tenants and prospective tenants regardless of familial status;

- 4 4. Awards statutory damages to plaintiffs pursuant to the Unruh Civil Rights Act;
 - 5 5. Awards pre-judgment interest and post-judgment interest as provided for by law;
 - 6 6. Awards costs of suit herein incurred, including reasonable attorneys' fees; and
 - 7 7. Awards all such other and further relief as the Court may deem proper.
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1 Dated: April 29, 2016

LAW OFFICES OF CRAIG P. FAGAN

2
3 By: /s/Craig P. Fagan
4 Craig P. Fagan
Attorneys for all Plaintiffs

5
6 **VIII.**
7 **JURY DEMAND**

8 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby request a
9 trial by jury.
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11 Dated: April 29, 2016

LAW OFFICES OF CRAIG P. FAGAN

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13 By: /s/Craig P. Fagan
14 Craig P. Fagan
15 Attorneys for all Plaintiffs
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